

OFFICE OF THE CLERK  
**UNITED STATES DISTRICT COURT**  
DISTRICT OF DELAWARE

Peter T. Dalleo  
CLERK

LOCKBOX 18  
844 KING STREET  
U.S. COURTHOUSE  
WILMINGTON, DELAWARE 19801  
(302) 573-6170

June 14, 2006

Duncan J. McNeill, III  
#293752  
Spokane County Jail  
1100 W. Mallon  
Spokane, WA 99260

RE: In re: Kaiser Aluminum Corporation  
Misc. No. 06-41-JJF

Dear Mr. McNeill:

The Court is in receipt of the documents listed below. Pursuant to the Court's Order (D.I. 50) issued on May 8, 2006, no action will be taken on your documents, and the following documents are being returned to you:

1. Letter To The Court Requesting Reasonable Accommodation filed on May 22, 2006;
2. Notice To Clerk Of Violation Of FRCP 5(e) And 1<sup>st</sup> Amend. Of U.S. Const. By The Unlawful Rejection Of Plaintiff's Pleadings filed on May 22, 2006;
3. Appellant's Ex Parte Motion To Reconsider Appointment Of Counsel On Appeal In The Interest Of Justice, Pursuant to 28 USCS,1915(c)(1) And Johnson v. U.S., 352 U.D. 565 (1957) (D.I. 37) originally filed on April 28, 2006 and re-filed on May 22, 2006;
4. Appellant's Ex Parte Motion For An Order Compelling The Bankruptcy Court Clerk To Prepare And Furnish To Appellant 2 Indexed And Bates Stamped, Copies Of The Excerpts Of Record (D.I. 38) originally filed on April 28, 2006 and re-filed on May 22, 2006;
5. Appellant's Ex Parte Motion For Extension Of Time; For Access To Court; For Forms And Rules And Procedures To Be Furnished 30 Day Extension Of Time To File Briefs filed on May 22, 2006 (D.I. 39) originally filed on April 28, 2006 and re-filed on May 22, 2006;
6. Motion For Extension Of Time And Due Process To Obtain Relief From Orders Of 04/18/06 and 04/24/06; Motions For Relief From Orders And To Modify Or Correct Findings Pursuant To FRCP 52, 59 And 60 (D.I. 40) originally filed on May 2, 2006 and re- filed on May 22, 2006;

OFFICE OF THE CLERK  
**UNITED STATES DISTRICT COURT**  
DISTRICT OF DELAWARE

Peter T. Dalleo  
CLERK

LOCKBOX 18  
844 KING STREET  
U.S. COURTHOUSE  
WILMINGTON, DELAWARE 19801  
(302) 573-6170

7. Petition And (1) Request For Judicial Notice; (2) Motion For Findings Of Fact And Conclusions Of Law Per FRCP 52 And 65; (3) Ex Parte For TRO/OSC And Preliminary Injunction Enjoining "Denial Of Access Orders" ("DOA Orders") And Mandating Access To Court To Directly Or Collaterally Attack DOA Orders Where Petitioner Has "Fundamental Interests At State"; (4) For Finding Of "Fundamental Interest" In Support Of TRO/OSC And Preliminary Injunction; (5) For Electronic Service By USDC Clerk And Reasonable Accommodations For Access To Court (D.I. 31) originally filed on April 27, 2006 and re-filed on May 22, 2006.

Very truly yours,  
Peter T. Dalleo, Clerk



Anita Bolton  
Courtroom Deputy

enclosure

cc: The Honorable Joseph J. Farnan, Jr.

# REQUEST FOR REASONABLE ACCOMMODATION

Duncan J. McNeil  
SPOKANE COUNTY JAIL  
#293752  
2030 West Spofford  
Spokane, WA 99205

FILE IN:  
CASE No. 06-41

TO: CLERK USDE

THE ENCLOSED "PETITION AND REQUEST  
FOR JUDICIAL NOTICE...", ~~THE~~ AND FOR  
PRELIMINARY INSTRUCTIONS, RECEIVED  
STAMPED 4/27/06, <sup>CARD OTHER PLANNINGS ENCLOSED.</sup> IS FOR FILING IN  
CASE No. 06-41.

PURSUANT TO ADA AND SECTION 504  
(29 USC § 794) AS A REASONABLE  
ACCOMMODATION TO MY ESTABLISHED  
DISABILITY I REQUEST FILING &

ACCESS TO THE COURT FOR A  
HEARING & DECISION ON THE MERITS,  
w/ FINDINGS OF FACT & CONCLUSIONS,  
PURSUANT TO FRCP 52 & 65.

THANK YOU FOR YOUR REASONABLE  
ACCOMMODATION.



DUNCAN J. McNEIL, III  
2030 W. SPOFFORD  
SPOKANE, WA 99205  
INDIGENT DISABLED UNLAWFULLY  
IMCARCELATED CIVIL DETAINER  
AND PLAINTIFF

MO -  
DATE: \_\_\_\_\_  
TIME: \_\_\_\_\_  
FJ- \_\_\_\_\_


U.S. DISTRICT COURT  
DISTRICT OF THE WADE

DUNCAN J. McNEIL, III  
APPEALANT  
PLAINTIFF AND  
JUDGMENT CREDITOR

CASE NO: 06-41

Kaiser Aluminum  
~~UNITED STATES, ET AL~~  
APPEELES DEFENDANTS AND  
JUDGMENT DEBTORS

NOTICE TO CLERKS  
OF VIOLATION OF  
FRCP 5(e) AND 1<sup>ST</sup>  
AMEND. OF U.S. CONST.  
BY THE UNLAWFUL  
REJECTION OF  
PLAINTIFF'S PLEADINGS

PLEASE TAKE NOTICE THAT THE  
CLERK OF THIS COURT COURT HAS  
VIOLATED THEIR OATH OF OFFICE, FRCP  
5(e). AND THE PLAINTIFF'S RIGHTS OF  
ACCESS TO THIS COURT BY UNLAWFULLY  
REJECTING PLAINTIFF'S PLEADINGS. THE  
CLERK IS A MINISTERIAL OFFICER OF  
THE COURT, WHO MUST ACCEPT ALL  
OF PLAINTIFF'S PLEADINGS AND LACKS  
DISCRETION OR AUTHORITY TO REJECT SAID  
PLEADINGS, FRCP 5(e), DIESEL V. FALK,  
916 F. Supp. 985 (C.D. CAL 1996). THE UNLAWFULLY  
REJECTED PLEADINGS ARE RETURNED HEREWITH FOR  
THE MINISTERIAL ACT OF FILING BY THE CLERK.  
DATED: 5/16/06 

06/01/06

② THE CLERK'S CONTINUED VIOLATION OF FRCP 5(e) AND THE PLAINTIFF'S  
RIGHTS SHALL BE BASIS FOR THE CLERK'S IMMEDIATE REMOVAL FROM  
OFFICE PURSUANT TO 28 U.S.C. §§ 751, 951 & 956.

① motion for Filing of FRCP 5(e) & preliminary injunction



DUNCAN J. McNEIL, III  
2030 W. SPOFFORD  
SPOKANE, WA 99205  
INDIGENT, DISABLED,  
UNLAWFULLY INCARCERATED,  
CIVIL DETAINEE, JUDGMENT  
CREDITOR AND APPELLANT

MO: \_\_\_\_\_  
DATE: \_\_\_\_\_  
FJ: \_\_\_\_\_

APR 23 2006

DISTRICT COURT  
U.S. COURT OF APPEALS  
FOR  
DISTRICT OF COLUMBIA

IN RE KAISER  
DUNCAN J. McNEIL, III  
PLAINTIFF / APPELLANT

V. KAISER  
UNITED STATES, ET AL.  
DEFENDANTS / APPELLEES

02-10429  
CASE NO:  
FACPS 2,59 #60  
APPELLANT'S Ex PARTE  
MOTION FOR TO RECONSIDER  
APPOINTMENT OF  
COUNSEL ON APPEAL  
IN THE INTERESTS  
OF JUSTICE, PURSUANT  
TO 28 USC § 1915(c)(1)  
AND JOHNSON V. US,  
352 U.S. 565 (1957).

THE APPELLANT HEREBY CERTIFIES  
THAT THE HEREIN APPEAL REQUIRES AN  
ANSWER TO ONE OR MORE PRECEDENT-  
SETTING QUESTIONS OF EXCEPTIONAL  
IMPORTANCE, ARISING FROM THE DENIAL  
OF OR THE VIOLATION OF FUNDAMENTAL  
CONSTITUTIONAL RIGHTS. BASED UPON THE FACTS,  
STATEMENTS AND AUTHORITY CITED TO IN THE  
APPELLANTS NOTICE OF APPEAL (INCORPORATED HEREIN)  
THE APPELLANT, INDIGENT & DISABLED, MOVES THE  
COURT FOR APPOINTMENT OF COUNSEL PER 28 USC  
§ 1915(c)(1) AND/OR JOHNSON V. U.S., 352 U.S. 565 (1957)  
DATED: 4/24/06

PG 1 OF 2 4

APPELLANT ASSESSS THAT WOULD  
 TO ENSURE DUE PROCESS IN THIS  
 ACTION, THAT APPELLANT SHOULD  
 BE APPOINTED COUNSEL, OR AT  
 LEAST "STAND-BY" COUNSEL, TO  
 ASSIST APPELLANT WITH ACCESS  
 TO THE COURT, RECORD, AND W/  
 COMPLIANCE WITH THE COURT'S  
 DEADLINES & RULES. THE COURT  
 HAS IMPROPERLY, IN VIOLATION OF  
 DUE PROCESS, FINDING A "HISTORY  
 OF FRIVOLOUS LITIGATION", WHICH  
 THE APPELLANT DISPUTES THESE  
 CONTENTIONS OR FINDINGS AND  
 ASKS TO BE HEARD ON THESE  
 ISSUES. APPELLANT MOVES  
 THE COURT FOR COPIES OF THE  
 ORDERS CITED TO IN ITS ORDER OF  
 4/18/06 ① 05-574, ORDER AT 2 (AUG  
 22, 2005) AND ② 05-574, MEM.  
 ORDER, AT 6 (FEB. 7, 2006), AND A  
 HEARING TO BE HEARD ON A COLLATERAL  
 ATTACK AS TO ANY ORDER REVOKED  
 PG 2 OF 4

OR CITED TO BY THE COURT THAT  
 INFERS, STATES, OR ALLEGES THAT  
 APPELLANT ① HAS A "HISTORY" OF  
 FILING FRAUDULOUS CLAIMS"; AND ②  
 CLAIMING THAT APPELLANT HAS  
 BEEN "DEEMED A VEXATIOUS  
 LITIGANT" BY THREE OTHER COURTS.

APPELLANT DISPUTES THESE FINDINGS  
 OF THE COURT, AND PURSUANT  
 TO FRCP 52, 59 & 60, SEEKS  
 RELIEF FROM SAID FINDINGS  
 (MADE SUA SPONTE & EX PARTE)  
 MADE W/O NOTICE OR OPPORTUNITY  
 TO BE HEARD, APPELLANT CERTIFIES  
 THAT ALL SUCH ORDERS ARE "VOID  
 AB INITIO", ENTERED IN A CLEAR  
 ABSENCE OF ALL JURISDICTION,  
 CONTRARY TO ~~THE~~ ESTABLISHED  
 & CONSTITUTIONAL PROVISIONS,  
 STATUTES, CASE LAW OR OTHER  
 AUTHORITY. AS SUCH SUCH ORDERS ARE  
 SUBJECT TO A COLLATERAL ATTACK  
 IN THE ACTION AS THEY HAVE  
 BEEN RELIED UPON BY THE  
 PG 3 OF 4



COURT IN DENYING APPELLANT  
RELIEF, IN VIOLATION OF THE  
APPELLANT'S RIGHT TO DUE  
PROCESS, AND RIGHT TO BE  
HEARD.

AS SUCH APPELLANT  
SEeks RELIEF FROM ALL SUCH  
ORDERS AND FINDINGS, UNDER  
FRCR 52, 59 & 60, AND/OR  
A MOTION HEARING w/ A  
BREAKING SCHEDULE ON THAT  
ISUE.

APPELLANT FURTHER ASSERTS  
THAT THE COURT'S PRE-DETERMINED  
TO DENY APPELLANT DUE PROCESS,  
TO DECEASE APPELLANT FRIVOLOUS  
AND VEXATIOUS, ON A EX PARTE  
SUBSPONTE BASIS, IS BASIS FOR THE  
COURT TO DISQUALIFY ITSELF IN  
THE MATTER AS THE APPELLANT'S  
RIGHT TO A FAIR HEARING BECAME THE  
IRREPARABLY COMPROMISED. I BECAME THE  
FOPR GOING TO BE TRUE AND CORRECT  
4/24/06 under the penalty of perjury  
R. 4.4





DUNCAN T. McPHER THE  
SPORTSMAN CO. ~~SPORTSMAN~~  
~~SPORTSMAN~~ 1100 W. MAIN ST  
SPokane, WA 99201

U.S.M.S  
X-RAY

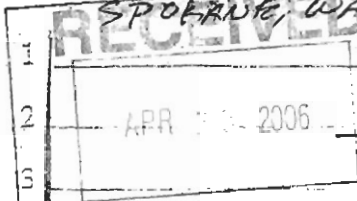
LEBBAL MHC

CLERK  
US DISTRICT COURT  
LOCK BOX 27  
COLUMBIA, DE 19801

199909201

DUNCAN J. MCNEIL, III  
2030 W. SPOFFORD  
SPOKANE, WA 99205

MO-  
DATE:  
FJA-



DISTRICT COURT  
U.S. COURT OF ~~APPEALS~~  
FOR THE

DISTRICT OF ~~DELAWARE~~

IN RE KAISER 02-10429 MC-06-41

DUNCAN J. MCNEIL, III  
PLAINTIFF/APPELLANT

CASE NO: 06-CV-178

V. KAISER  
~~UNITED STATES STEEL~~  
DEFENDANTS/ADDRESSES

APPELLANT'S EX PARTE  
MOTION FOR AN ORDER  
COMPELLING THE ~~DISTRICT~~  
COURT CLERK TO PREPARE  
AND FURNISH TO APPELLANT  
2 INDEXED AND BATES  
STAMPED, COPIES OF THE  
EXCERPTS OF RECORD.

I, DUNCAN J. MCNEIL, III, BEING SWORN UPON OATH  
HEREBY DECLARE THAT: BY MY NOTICE OF APPEAL  
IN THIS ACTION I DESIGNATED THE COMPLETE  
RECORD OF THE ~~DISTRICT~~ COURT AS THE RECORD ON  
APPEAL, AND REQUESTED THAT THE CLERK OF THE  
DISTRICT COURT PROVIDE ME <sup>2</sup> INDEXED AND  
BATES STAMPED COPIES, FOR MY USE IN THIS APPEAL,  
ONE FOR FILING WITH THE COURT OF APPEAL AND  
ONE FOR ME TO RETAIN. THAT PURSUANT TO BOUNDS V.  
SMITH 430 U.S. 817, AT 824-825 (1977), AND CASES  
CITED THEREIN, I AM ENTITLED TO A COPY OF THE RECORD  
ON APPEAL, WHICH THE CLERK HAS REFUSED TO PROVIDE ME.  
I REQUEST THAT THE CLERK BE ORDERED TO PROVIDE  
2 INDEXED AND BATES STAMPED COPIES AND THAT I BE  
GRANTED AN EXTENSION UNTIL RECEIVED. I CERTIFY THAT  
I MAILED THIS MOTION ON 4/24/06.

DATED: 4/24/06

PAGE 1 OF 1

APPELLANT



DUNCAN T. McPHER JAC  
SPARKS CO. ~~SPARKS~~  
~~CHART~~ 1100 W. MATHEWSON  
SPARKS, WA 99260

U.S.M.S  
X-RAY

CLARK  
US DISTRICT COURT  
LOCK BOX 27  
CONTRACT OR, DE 19801

LEBBAL MHC

1999092201



DUNCAN J. McNEIL, III  
 2030 W. SPOFFORD  
 SPOKANE, WA 99205  
 INDIGENT DISABLED UNLAWFULLY  
 INCARCERATED "CIVIL DETAINEE"  
 A JUDGMENT CREDITOR AND  
 APPELLANT

MO: \_\_\_\_\_  
 DATE: \_\_\_\_\_  
 FJ: \_\_\_\_\_

DISTRICT COURT  
U.S. COURT OF APPEALS  
FOR  
DISTRICT OF MONTANA


IN RE KAISER 02-10429 MC-06-41  
 DUNCAN J. McNEIL, III  
 v. PLAINTIFF-APPELLANT,  
 KAISER  
 UNITED STATES, ET AL  
 DEFENDANTS-APPELLEES

APPEAL No: CY-05-574  
 CY-06-178

APPELLANT'S EX PARTE  
 MOTION FOR EXTENSION  
 OF TIME; FOR ACCESS  
 TO COURT; FOR FORMS  
 RULES & PROCEDURES  
 TO BE FURNISHED<sup>①</sup> TO  
 30 DAY EXTENSION OF  
 TIME TO FILE BRIEFS

CLERK'S ACTION REQUIRED:  
 REQUEST FOR COPIES OF FRAP  
 CIRCUIT RULES, PROSE RULES,  
 FORMS, IFP MOTION APPLICATION  
 PROSE BRIEF & OTHER FORMS

THE UNDERSIGNED INDIGENT-DISABLED  
 UNLAWFULLY INCARCERATED "CIVIL DETAINEE" AND  
 APPELLANT, HEREBY REQUEST A 30 DAY EXTENSION  
 OF TIME AS TO ALL DEAD LINES IN THIS APPEAL,  
 DUE TO RESTRAINTS RESULTING FROM MY ONGOING  
 UNLAWFUL INCARCERATION, SEE ELDRIDGE V. BLOCK,  
832 F.2d 1132, AT 1136 (9TH CIR 1987); TARRANTO V. EGGERS,  
380 F.2d 465, 468 (9TH CIR 1967). I AM PRESENTLY  
 SUFFERING AN ON GOING "BONDS VIOLATION", W/ ACTUAL  
 INJURY, OF A TOTAL AND COMPLETE DENIAL OF ACCESS  
 TO RESOURCES, TO MEET THE COURT'S DEAD LINES. I  
 CERTIFY THAT THE FOREGOING IS TRUE AND CORRECT,  
 UNDER THE PENALTY OF PERJURY, AND I CERTIFY  
 THAT THIS MOTION WAS FILED/MAILED BY PLACING IT  
 INTO THE OUTGOING INDIGENT MAIL, ON 4/24/06  
 AT SCT, SE-30.  
 DATED: 4/24/06

  
 APPELLANT





US DISTRICT COURT  
DISTRICT OF DELAWARE

IN RE KASER

02-1042

RECEIVED

MAY - 2 2006

DUNCAN J. McNEIL, III

ME - 06-41

CV - 05-574

CV - 06-178

V.

KASER

NOTICE OF COLLATERAL  
#FOR DIRECT ATTACK ON:  
① 05-574, ORDER AT  
2 (D. DEL. 8/22/05; AND  
② 05-574, ORDER AT  
6 (D. DEL. 2/7/06) (WHICH  
APPELLANT WAS NEVER  
SERVED WITH); AND ③  
ALL OTHER ORDERS  
THAT THESE ORDERS  
ARE BASED UPON

MOTION FOR EXTENSION OF  
TIME AND DUE PROCESS  
TO OBTAIN RELIEF FROM  
ORDERS OF 4/18/06  
AND 4/24/06; MOTIONS  
FOR RELIEF FROM ORDERS  
AND TO MODIFY OR  
CORRECT FINDINGS  
PURSUANT TO FRCP  
52, 59 & 60

APPELLANT BEING SERVED UPON CATH HENRY DECLARES:  
THE APPELLANT AND JUDGMENT CREDITOR  
HENRY SEeks AND EXTENSION OF TIME  
AND DUE PROCESS, BRIEFING SCHEDULE,  
ACCESS TO COURT RECORDS, NOTICE AND  
OPPORTUNITY TO BE HEARD, IN ORDER  
TO OBTAIN RELIEF FROM:  
1. 4/18/06 ORDER IN 05-574, DOCKET#  
4/19/06 AS D.I. #21  
pg 1 OF 7



2. 4/18/06 ~~order~~, ~~DEC~~ 06-41, DOCKETED  
4/19/06 AS D.I. # 23;

3. 4/24/06 ~~order~~, 06-41.

THESE ~~ORDERS~~ ARE BASED UPON  
THE MANIFEST ERROR OF BOTH  
FACT & LAW THAT:

1. APPELLANT HAS A "HISTORY OF  
FILING FRIVOLOUS CLAIMS";

2. APPELLANT HAS 3 -  
COUNTABLE "STRAKES" PURSUANT  
TO 28 USC § 1915(9);

3. APPELLANT HAS BEEN  
"DEEMED A VEXATIOUS LITIGANT" BY  
THREE OTHER COURTS"; ~~AND~~

4. THAT THE 3-STRAKES  
PROVISION OF 28 USC § 1915(9) IS  
APPLICABLE TO APPELLANT IN  
THIS ACTION; AND

5. THAT THERE IS AN "EXPEDIATED  
NATURE OF THE UNDERLYING

PAGE 2 OF 7

# PROCEEDINGS.

APPELLANT BRINGS THE MOTION TO: ① CORRECT MANIFEST ERRORS OF FACT AND LAW BY THIS COURT; ② TO ENFORCE THE APPELLANT'S FUNDAMENTAL CONSTITUTIONAL INTERESTS IN THIS ACTION; AND ③ TO OBTAIN DUE PROCESS OF LAW, BY WAY OF A COLLATERAL <sup>ERRONEOUS</sup> AND/OR DIRECT ATTACK ON, SUA SPONTE, EX PARTE ORDERS OF THIS COURT, AND THE "VOID AB INITIO", MANIFESTLY ERRONEOUSLY FOREIGN ORDERS THAT THIS COURT RELIES UPON.

~~THE~~ IN AN AVAUNCHED OF SUA SPONTE EX PARTE ORDERS, WHICH VICINATE THE APPELLANT'S DUE PROCESS RIGHTS, THIS COURT HAS VACATED ITS OWN

PROPER ORDERS, DECLARING THEM  
 ERRONEOUS OR MISTAKEN  
 (DECLARING "THE COURT WAS ERRONEOUSLY  
 INFORMED BY THE BANKRUPTCY COURT...")  
 AND HAS NOW SET AN ARBITRARY  
 AND CAPRICIOUS DEADLINE OF  
 3 COURT DAYS, FOR THE  
 INDIGENT DISABLED AND  
 UNCAUTIONFULLY INCARCERATED TO  
 COMPLY WITH THE COURT'S MANIFESTLY  
 ERRONEOUS ORDER OF 4/24/06, IN  
 MC-06-41.

APPELLANT ASSERTS THERE IS  
NO BASIS FOR AN "EXPEDITED  
 NATURE OF THE UNDERLYING  
 PROCEEDING" AS TO THE  
 APPELLANT'S APPEAL. WHILE  
 THE COURT HAS FOUND THIS AS TO  
 THE "INSURANCE" APPEALS, WHICH  
 THE COURT HAS "LUMPED" OR



or "FORCED" THE APPELLANT WOULD  
 (w/o due process), THERE IS NO  
 BASIS TO LINK THIS APPELLANT'S  
 APPEAR TO THE "INSURANCE"  
 APPEARS. APPELLANT'S DUE  
 PROCESS RIGHTS, MUST BE  
 PROTECTED BY THIS COURT, BY  
 SEVERING THIS APPEAR  
 FROM THE INSURANCE APPEARS.

APPELLANT INSULTS THIS  
 COURT'S MANIFESTLY EMBARRASSING  
 FINDINGS AND ORDERS, WHICH  
 ARE BASED ENTIRELY UPON  
 "VOID AB INITIO" FOREIGN ORDERS,  
 WHICH APPELLANT HAS A DUE  
 PROCESS RIGHT TO COLLECTIVELY  
 ATTACK IN THE APPEAL.

P6 5 OF 7

WHE APPELLANT UNDER STANDS  
 "THIS COURT'S URGENCY WITH THE  
 INSURANCE" APPEALS, THE  
 OUTCOME OF WHICH COULD  
SIGNIFICANTLY AFFECT THE

DEBTOR REORGANIZATION,  
 THIS APPEAL, CAN HAVE NO  
 SUCH EFFECT OR IMPACT.

APPELLANT CHALLENGES THE  
 "RE-CLASSIFICATION" AND "REDUCTION"  
 OF CLAIM # T36, (A SINGLE  
 INSIGNIFICANT CLAIM), THE OUTCOME  
 OF WHICH COULD HAVE NO  
 SIGNIFICANT EFFECT OR IMPACT  
 ON THE DEBTOR'S REORGANIZATION.

THIS COURT CAN NOT VIOLATE  
 THE APPELLANT'S ~~FUNDAMENTAL~~  
MULTIPLE FUNDAMENTAL  
 CONSTITUTIONAL ISSUES NOW AT  
 STAKE IN THIS APPEAL, BY  
 PG 6 OF 7

THIS COURT'S OWN, SUA SPONTE,  
 EX PARTE, RELIANCE ON "VOID"  
 AB INITIO FOREIGN ORDERS,  
 WHICH THE COURT IS ATTEMPTING  
 TO USE IN A SUMMARY FASHION  
 TO FORECLOSE ON AND  
 FOREVER TERMINATE APPELLANT'S  
 RIGHTS IN THE APPEALS  
 ORIGINALLY DOCKETED AS  
 05-574 & 06-178.

APPELLANT MOVES THE  
 COURT FOR AN ORDER SEVERING  
 THESE APPEALS FROM THE  
 "INSURANCE" APPEALS, AND  
 FOR THE GRANTING OF APPELLANT'S  
 4/20/06 MOTION(S) FOR TRO/OSC  
 & PRELIMINARY INJUNCTION AND  
 A 30 DAY EXTENSION OF TIME  
 AS TO ALL DEADLINES. I DECLARE THE  
 FOREGOING TO BE TRUE AND CORRECT  
 UNDER THE PENALTY OF PERJURY AND CERTIFY  
 THAT THIS MOTION WAS MAILED/FILED ON 4/25/06  
 DATED: 4/25/06 PG 7 OF 7 *[Signature]*



DUNCAN J. McPHERSON  
SPRUE CO. VAIL  
1100 W. MARCON  
SPRUE, WA 99268

LEGAL MAIL

13801+3813-33 C012

CLICK  
US DISTRICT COURT  
LOCK BOX 27  
844 KING STREET  
WILMINGTON, DE  
19801



CLERK, U.S. DISTRICT COURT  
UNITED STATES COURTHOUSE  
BUFFALO, NY 14202-3498

OFFICIAL BUSINESS

**INMATE'S MAIL**

Spokane County Jail  
1100 W Mallon  
Spokane, WA 99260-9820

**LEGAL MAIL RECEIVED**



Hasler

012418207444

\$00.630

04/18/2006

Posted From 14202

US POSTAGE

APR 18 2006

SPokane Co. Jail

20060614-20-001



MO: PJA-077

DATE: 4/20/06

FT: KA-01

U.S. DISTRICT COURT

DISTRICT OF DELAWARE

NOTICE OF CHANGE OF  
ADDRESS TO:DUNCAN J. MCNEEL III  
2030 W. SPOFFORD  
SPOKANE, WA 99205

RECEIVED

APR 27 2006

IN RE: KAISER ALUMINUM  
DEBTORSBK NO: 02-10429  
(CLAIM NO. 736)IN RE: KAISER  
APPELLEESMC NO. 06-41  
(CV-06-178)DUNCAN J. MCNEEL, III  
APPELLANT

CV-05-574

v.

KAISER ALUMINUM  
APPELLEESREQUEST FOR ELECTRONIC  
FILING AND ELECTRONIC  
SERVICE BY THE  
CLERK OF THE COURT.

PETITION AND

① REQUEST FOR JUDICIAL NOTICE; ② MOTION  
FOR FINDINGS OF FACT & CONCLUSIONS OF  
LAW PER FRCP 52 & 65; ③ Ex PARTE  
FOR TRO/OSC AND PRELIMINARILY INJUNCTION  
ENJOINING "DENIAL OF ACCESS ORDERS"  
("DOA ORDERS") AND MANDATING ACCESS TO  
COURT TO DIRECTLY OR COLLATERALLY  
ATTACK DOA ORDERS WHERE PETITIONER  
HAS "FUNDAMENTAL INTERESTS AT  
STAKE"; ④ FOR FINDING OF "FUNDAMENTAL  
INTEREST" IN SUPPORT OF TRO/OSC &  
PRELIMINARILY INJUNCTION; ⑤ FOR  
ELECTRONIC SERVICE BY USDC CLERK AND  
REASONABLE ACCOMMODATIONS FOR ACCESS TO COURT.

PG 1 OF 35



PETITIONER & APPELLANT, BEING  
SWORN UPON OATH, HEREBY  
DECLARES:

I. REQUEST FOR JUDICIAL NOTICE

1. PETITIONER, PURSUANT TO FRCP  
52, 59, 60 & 65 HEREBY SEEKS A  
PRELIMINARY INJUNCTION (P.I.) BY  
WAY OF A TEMPORARY RESTRAINING ORDER  
(T.R.O.) AND AN ORDER TO SHOW  
CAUSE (O.S.C.)<sup>①</sup> ENJOINING THE USE  
EXECUTION AND ENFORCEMENT OF ALL  
DENIAL OF ACCESS ORDERS (DOA ORDERS)  
AGAINST APPELLANT; ~~AND~~<sup>②</sup> THE GRANTING  
OF FULL FAITH & CREDIT TO THE 21  
SEPARATE FINAL JUDGMENTS & CONSENT  
DECREE, ADMITTED INTO EVIDENCE IN  
THIS ACTION (SEE EX. 2, PGS 34 OF 35  
TO 35 OF 35) AND ENTITLED TO FULL  
FAITH & CREDIT HEREIN, PURSUANT TO  
U.S. CONST. ART IV § 1 AND 10 DEL.C.  
§§ 4781 TO 4787 (THE DELEWARE  
UNIFORM ENFORCEMENT OF FOREIGN JUDGMENTS  
ACT (UEFTA)); AND<sup>③</sup> THE GRANTING OF  
PETITIONER ~~REAS~~ ACCESS TO THIS  
COURT, BY MANDATING THE GRANTING  
OF REASONABLE ACCOMMODATIONS TO  
PETITIONER, AN INDIVIDUAL WITH AN  
ESTABLISHED DISABILITY, WHO IS  
OTHERWISE QUALIFIED TO RECEIVE THE  
PG 2 OF ~~33~~ 35

BENEFITS, PROGRAMS AND SERVICES OF THIS COURT, INCLUDING BUT NOT LIMITED TO ALL CONSTITUTIONALLY PROTECTED DUE PROCESS AND "VESTED PROPERTY" RIGHTS.

2. PETITIONER REQUESTS THAT THIS COURT ~~FOR~~ TAKE JUDICIAL NOTICE OF, INCORPORATE HEREIN, AND GRANT ADMISSIBILITY HEREIN, PURSUANT TO FRCP 44(a)(1) AND FRE RULE 201(b)(2) THE "OFFICIAL PUBLICATIONS THEREOF" ON THE COURT'S "PACER" SYSTEM, THE FOLLOWING PUBLIC AND COURT RECORDS:

A. D.I. 4, FILED 9/19/05, IN USDC-D-DE CASE NO. 05-CV-574, "EX PARTE MOTION..." FOR TRO/OSC & P.I.;

B. D.I. 6, FILED 10/11/05, CASE 05-CV-574, "NOTICE OF COLLATERAL ATTACK...";

C. D.I. 7, FILED 10/11/05, CASE 05-CV-574, "EX PARTE MOTION...";

D. D.I. 8, FILED 10/11/05, CASE 05-CV-574, "EX PARTE MOTION IN SUPPORT...";

E. D.I. 9, FILED 10/11/05, CASE 05-CV-574, "DECLARATION IN SUPPORT...";

F. D.I. 13, FILED 1/13/06, CASE 05-CV-574, "EX PARTE APPLICATION TO PROCEED...";

G. D.I. 14, FILED 1/13/06, CASE 05-CV-574, "PETITION & REQUEST TO CLERK FOR REGISTRATION

OF "FOREIGN JUDGMENTS...",  
 PURSUANT TO U.E.F.T.A., 10 DEL. C.  
 §§ 4781 TO 4787; (EX. 2 <sup>HERE TO LISTING</sup> ~~21 SEPARATE~~ "FOREIGN JUDGMENTS"  
 H. D.I. 16, FILED 2/21/06, CASE 05-CV-574,  
 "RETURN OF UNDELIVERABLE MAIL..."  
 I. D.I. 18, FILED 4/11/06, CASE 05-CV-574,  
 "REQUEST FOR REASONABLE ACCOMMODATION...";  
 J. D.I. 19, FILED 4/11/06, CASE 05-CV-574,  
 K. EX 2, PGS 71 OF 35 TO 75 OF 35,  
 HEREIN, ITEMS "q" TO "u", 21 SEPARATE  
 FINAL JUDGMENTS AND/OR CONSENT DECREES,  
 AS ~~RECEIVED~~ ESTABLISHED BY THE "OFFICIAL  
 PUBLICATIONS THEREOF", PER FRCP 44(b)(1)  
 AND FRE RULE 201(b)(2), AND ~~PER~~  
 WHICH ARE ENTITLED TO FULL FAITH & CREDIT  
 BY THIS COURT, PURSUANT TO U.S. CONST.  
 ART. IV § 1 AND 10 DEL. C. §§ 4787 TO  
 4787.

30 I HEREBY CERTIFY THAT THE FOREGOING  
 ARE THE "OFFICIAL PUBLICATIONS THEREOF"  
 ON THE COURT'S "PACER" SYSTEM, AS  
 THE INDICATED CASE NO. AND DOCKET #,  
 AND AS SUCH ARE ADMISSIBLE IN THE  
 CAPTIONED ACTIONS, AND I HEREBY  
 REQUEST AS A REASONABLE ACCOMMODATION  
 TO MY ESTABLISHED DISABILITY,  
 (SEE 29 U.S.C. § 794, REHABILITATION ACT OF

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1973 AND 42 U.S.C. §§ 12101-12213, ADA) I REQUEST THAT THE CLERK OF THE COURT, OBTAIN, PRINT, COPY & FILE EACH OF THE FOREGOING PUBLIC RECORDS AND THAT THEY BE FILED AND DOCKETED IN THE CAPTIONED ACTIONS, THAT REQUEST FOR JUDICIAL NOTICE THEREOF BE GRANTED, THAT THEY EACH BE ORDERED TO BE ADMISSIBLE IN THE CAPTIONED ACTIONS, AND THAT THE FINAL JUDGMENTS, AND FINAL CONSENT DECREES LISTED ON EX. 2 (PGS 34 OF 35 TO 35 OF 35) BE GRANTED FULL FAITH & CREDIT BY THE USCA AND THAT THE USDC BE COMPELLED TO DO THE SAME.

## II MOTIONS FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW

4. WHEN GRANTING OR DENYING A PRELIMINARY INJUNCTION THIS COURT HAS A MANDATORY NON-DISCRETIONARY DUTY TO SET FORTH DETAILED FINDINGS OF FACT AND CONCLUSIONS OF LAW, SO THAT THE TRIAL JUDGE IS REQUIRED TO

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ASCERTAIN FACTS WITH DUE CARE SO AS TO RENDER A DECISION IN ACCORDANCE WITH THE UNCONTROVERTED OR CONTROVERTED, BUT FOUND EVIDENCE, AND THE LAW, SEE INVERNESS CORP V. WHITEHALL LABS, 819 F.2d 48 (2ND CIR 1987).

5. IN CASE NO. 05-574, D.I. 4 (9/19/05) AND D.I. 13 & 14 (1/13/06) THE PETITIONER SOUGHT A TRO/OSC & P.I. PURSUANT TO FRCP 52 & 65, REQUIRING THIS COURT TO ENTER FINDINGS OF FACT AND CONCLUSIONS OF LAW IN THE GRANTING OR REFUSING THE TRO/OSC & P.I.

6. THE COURT'S ORDER OF <sup>(CASE 05-574)</sup> 9/27/05, D.I. 5, MAKES NO REFERENCE TO D.I. 4, AND ~~IS~~ INCLUDES NONE OF THE REQUIRED FINDINGS OF FACT OR REQUIRED CONCLUSIONS OF LAW. THE PETITIONER HAS NEVER BEEN SERVED WITH THE COURT'S 2/7/06 ORDER IN 05-574, D.I. 15 (SEE D.I. 16) BUT THE DOCKET ENTRY MAKES NO MENTION OF THE DENIAL OF THE TRO/OSC & P.I. SOUGHT IN D.I. 4. TR-6-06-35

~~AS SUCH, PETITIONER'S~~  
 7. WHILE D.O.I. IS ~~THE~~ DOCKET ENTRY STATES THAT THE RELIEF (INJUNCTIVE) REQUESTED IN D.O.I. 13 & 14 IS "DENIED," THE DOCKET ENTRY DOES NOT REFER TO ANY OF THE MANDATORY FINDINGS OF FACT OR CONCLUSIONS OF LAW, THAT FORMED THE BASIS FOR THE COURT'S DENIAL OF INJUNCTIVE RELIEF. ~~UNDER~~

8. ~~AS SUCH~~ AN ORDER DENYING INJUNCTIVE RELIEF IS VACATED AND REMANDED WITH DIRECTIONS WHEN THE DISTRICT COURT DID NOT MAKE FINDINGS OF FACT OR STATE CONCLUSIONS OF LAW, AND/OR THE PETITIONER WAS NOT AFFORDED AN ADEQUATE HEARING, SEE MCWHINNEY V. CAIN, 289 F.2d 315 (CA. PA. 1961).

9. IN GRANTING OR DENYING/ REFUSING A PRELIMINARY INJUNCTION THE DISTRICT COURT IS REQUIRED



TO MAKE EXPLICIT FINDINGS OF FACT AND CONCLUSIONS OF LAW, UPON WHICH ITS CONCLUSION OR ORDER IS BASED, SEE I.C.C. v. CARDINALE TRUCKING CORP, 308 F.2d 435 (2<sup>ND</sup> CIR 1962); SEE ALSO DAVIS v. U.S., 422 F.2d 1139 (11<sup>TH</sup> CIR. 1970).

10. THE TRIAL COURT MUST SUPPLY ADEQUATE FINDINGS TO SUPPORT ITS ORDER, SEE PARCEL 49 C LP. v. US, 31 F.3d 1147 (FED CIR. 1994).

11. THE RULE REQUIRING THE TRIAL COURT TO STATE ITS FINDINGS AND CONCLUSIONS EXPLICITLY WHEN GRANTING OR DENYING AN INJUNCTION IS OF PARAMOUNT IMPORTANCE TO PROPER REVIEW BY APPELLATE COURT, SEE FAIR HOUSING v. TOWN OF AUSTINTON 316 F.3d 357 (2<sup>ND</sup> CIR, 2003).

12. IN THIS ACTION THE 21 SEPARATE FINAL JUDGMENTS AND FINAL CONSENT DECREES, ALREADY ESTABLISH AND INCLUDE INJUNCTIONS, UNDER 11 U.S.C. 362<sup>(e)</sup> (REIMPOSED AUTOMATIC STAY) AND UNDER 11 U.S.C. §§ 524 AND 1141 (DISCHARGE & DISCHARGE INJUNCTIONS, ALONG WITH OTHER LIKE INJUNCTIONS CONTAINED IN WRITS 02-0001 TO 02-0008 OF ~~30~~ 35

SEE EX. 2, ITEM "C" & "D", PG 34 OF 35, HEREIN  
SEE EX. 2, ITEM "C" & "D", PG 34 OF 35, HEREIN

02-0005 (EX. 2, ITEMS "h" to "i",  
pg 34 of 35, HEREIN).

13. BY THIS MOTION FOR TRO/OSR AND P.I., THE PETITIONER, BASED UPON THE FULLY ADJUDICATED FACTS, CONCLUSIONS, ORDERS, ~~DECREES~~, WRITS AND EXECUTIONS CONTAINED WITHIN THE 21 SEPARATE FINAL JUDGMENTS AND FINAL CONSENT ~~DECREES~~, SIMPLY SEEKS THE EXTENSION OF PRE-EXISTING, AND FULLY ADJUDICATED INJUNCTIONS AND THE "VESTED RIGHTS" THEREIN, TO BE ENFORCED BY THE USCA, IN THIS CIRCUIT, AND THE USDC, IN ITS DISTRICT. THE ISSUANCE, SUA SPONTE, OF THE REQUESTED TRO/OSR & P.I. IS MANDATORY, NON-DISCRETIONARY AND MINISTERIAL ACT UNDER U.S. CONST. ART IV § 1, 28 USC § 1738 AND 10 DEL. C. §§ 4781 TO 4787.

14. ALL OF THE OFFERED FACTS, EVIDENCE AND RECORDS SUBMITTED IN SUPPORT OF THE REQUESTED  
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TRD/OSC & P.I. IS UNCONVINCED BY ANY FACT, STATEMENT OR EVIDENCE SUBMITTED BY THE REORGANIZED DEBTOR, KAISER ALUMINUM. THERE IS SIMPLY NO EVIDENCE, OF ANY NATURE THAT WOULD SUPPORT A FINDING OR CONCLUSION DENYING THE REQUESTED TRD/OSC & P.I.

15. IF A FINDING IS DIRECTLY CONTRARY TO THE ONLY EVIDENCE PRESENTED THAT FINDING IS PROPERLY CONSIDERED TO BE CLEARLY ERRONEOUS, SEE TRANS-ORIENT v. STAR TRADING, 925 F.2d 566 (2ND CIR 1991).

16. AS SUCH THE PETITIONER HEREBY SUBMITS ALL PREVIOUSLY ADJUDICATED FINDINGS & CONCLUSIONS (SEE EX. 2, ITEMS "Q" TO "U") AS WELL AS THOSE OFFERED IN THE REQUEST FOR JUDICIAL NOTICE, HEREIN, ~~THE~~ ITEMS 2(A) PG 3, TO 2(J) PG 4, HEREIN, IN SUPPORT OF THE GRANTING OF PG 10 OF 35



OF THE TRO/OSC & P.I. SOUGHT  
 HEREIN, AND <sup>AS SOUGHT</sup> BY D.I. 4, (9/19/05)  
 13 & 14 (1/3/06) IN CASE NO. 05-574,  
 AS THE <sup>INJUNCTIVE</sup> RELIEF SOUGHT HEREIN AND  
 BY D.I. 4, 13 & 14, IS INJUNCTIVE  
 RELIEF THAT THE PETITIONER  
 HAS ALREADY, BEEN PREVIOUSLY  
 HELD TO BE ENTITLED TO, BY  
 EXISTING FINAL AND FULLY  
 ADJUDICATED JUDGMENTS AND  
 CONSISTENT DECISIONS.

### III. MOTION FOR TRO/OSC AND PRELIMINARY INJUNCTION

17. BY WAY OF THE ADJUDICATED  
 FACTS AND CONCLUSIONS AND THE  
 UNCONTROVERTED OFFERED FACTS  
 AND CONCLUSIONS, AND PURSUANT TO  
 U.S. CONST. ART IV §1; 28 USC §1738;  
 10 DEL.C. §§1781 TO 1787, THE  
 PETITIONER SEEKS THE SOA SPONTE  
 ISSUANCE OF A TRO/OSC, FOLLOWED  
 BY A PRELIMINARY INJUNCTION,  
 MANDATING AND PROHIBITING THE  
 FOLLOWING, IN THE ~~COURT~~ DISTRICT:

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A. PROHIBITING THE USE, EXECUTION OR ENFORCEMENT, IN THIS DISTRICT, BY THE REORGANIZED DEBTOR, KAISER ALUMINUM CORP ("KAISER"), OR ANY OTHER PERSON, ANY AND ALL "VEXATIOUS LITIGANT", "STRIKE" OR "3-STRIKE" (AS DEFINED BY 28 USC 1915(g)) OR OTHER DENIAL OF ACCESS ORDERS, THAT HAVE NOT BEEN SPECIFICALLY ALLOWED OR PRESERVED BY THE FINAL JUDGMENTS AND FINAL CONSENT DECREES LISTED ON EX. 2, IN THE CAPTIONED MATTERS, OR IN ANY OTHER MATTER OR ACTION IN THIS DISTRICT.

B. PROHIBITING ANY ACT, ACTION OR CLAIM, MADE, SOUGHT OR ADVANCED IN VIOLATION OF, OR IN CONTRAVENTION OF THE:

i. REIMPOSED AUTOMATIC STAY, PER 11 USC § 362, AS ESTABLISHED BY ITEMS "a" AND "d" OF EX. 2, AND/OR THE REMAINING FINAL JUDGMENTS OR FINAL CONSENT DECREES, LISTED ON EX. 2;

ii. THE DISCHARGE AND DISCHARGE INJUNCTION, PER 11 U.S.C. § 524 & 1141, AS ESTABLISHED BY ITEMS "a", "b", "c" AND "d" OF EX. 2, AND/OR THE REMAINING FINAL JUDGMENTS OR FINAL CONSENT DECREES, LISTED ON EX. 2;

iii. WRITS OF OBEDIANCE, WRITS 02-0001 TO 02-0005, ITEMS "h", "i", "j", "k" & "l" ON EX. 2.

C. MANDATING ANY AND ALL ACTS OR ACTIONS, SPECIFIED, DETAILED, DIRECTED, OR DECLARED BY ITEMS "b", "c" OR "d", AND/OR WRITS 02-0001 TO 02-0005, ITEMS h TO l, EX. 2;

D. MANDATING THE CLERK OF THIS COURT, TO VIA SOURCE, ON THE EX PARTE APPLICATION OF THE PETITIONER, TO ISSUE SUCH MESSENGER PROCESS, WRITS OR EXECUTIONS, WITHOUT FURTHER ORDER OF THE COURT, AS NECESSARY OR REQUIRED, OR REQUESTED BY THE PETITIONER TO FULLY EXECUTE ON AND/OR ENFORCE UPON THE TERMS, PROVISIONS, OR BELIEF AND "VESTED RIGHTS" ESTABLISHED BY OR SET FORTH IN THE FINAL JUDGMENTS OR CONSENT DECREES, LISTED ON EX. 2;

E. PROHIBITING ACTS BY ALL PERSONS, IN THE INTERFERENCE OF THE PETITIONER'S ACCESS TO THE COURT, AS NECESSARY AND OR REQUIRED OR REQUESTED FOR THE PETITIONER TO FULLY AND TIMELY EXECUTE AND ENFORCE UPON THE FINAL JUDGMENTS OR FINAL CONSENT DECREES, LISTED ON EX. 2.

C. FOR AN ORDER OF THIS COURT, FINDING AND INCORPORATING THEREIN, ALL FINDINGS OF FACT, STIPULATED TO FACTS, CONCLUSIONS OF LAW AND OTHER FINDINGS CONCLUSIONS, ORDERS OR DECREES MADE OR STATED IN THE FINAL JUDGMENTS AND FINAL CONSENT DECREES, LISTED ON EX. 2, AS THE FINDINGS AND CONCLUSIONS OF THIS COURT, IN SUPPORT



OF THE GRANTING OF THE REQUESTED  
INJUNCTIVE RELIEF.

UNCONTROVERTED

A. STATEMENT OF THE CASE & FACTS

18. THIS ACTION IS AN APPEAL FROM THE BANKRUPTCY COURT'S ~~SEE~~ ORDER CONFIRMING KAISER'S PLAN OF REORGANIZATION. THE PETITIONER IS A CREDITOR HOLDING AN ALLOWED CLAIM, UNDER KAISER'S CONFIRMED PLAN.

19. THE PETITIONER ASSERTS, IN THIS APPEAL, THAT HIS CLAIM WAS IMPROPERLY AND ERRONEOUSLY RE-CLASSIFIED ~~IS~~ AND REDUCED BY BANKRUPTCY COURT ORDER OF 6/27/05 D.I. 6975, AND BY KAISER'S SUBSEQUENT CONFIRMED PLAN OF REORGANIZATION.

20. PETITIONER FURTHER ASSERTS THAT HE WAS DENIED ACCESS TO THE BANKRUPTCY COURT, IN VIOLATION OF HIS 1<sup>ST</sup> AMEND. RIGHTS, AND WAS DENIED DUE PROCESS, NOTICE AND OPPORTUNITY TO BE HEARD BY THE PROCEEDINGS THAT RESULTED IN THE CONFIRMATION OF KAISER'S PLAN OF REORGANIZATION AND THE RE-CLASSIFICATION AND REDUCTION OF THE PETITIONER'S ALLOWED CLAIM.

21. THE REORGANIZED DEBTOR HAS NOT DISPUTED OR CONTROVERTED ANY OF THE PETITIONER'S ASSERTIONS.

22. PETITIONER'S CLAIM AND ISSUES ON APPEAL HAVE NO CONNECTION OR RELATION TO THE CLAIMS OR ISSUES ON APPEAL AS TO THE OTHER APPELLANT'S WHO'S APPEALS ARE CONSOLIDATED INTO 06-MC-41.

23. KAISER, BY WAY OF THE SUA SPONTE ORDERS OF THE USDC. IN CASE NO. 05-CV-574, D.I. 5 (9/27/05), D.I. 15 (2/7/06) AND D.I. 20 (4/13/06) SEEKS TO BAR THE PETITIONER'S ACCESS TO THIS COURT, AND PETITIONER'S STATUTORY RIGHT TO APPEAL, BY SUA SPONTE, W/O NOTICE, HEARING, OPPORTUNITY TO BE HEARD, ORDERS FINDING AND DECLARING PETITIONER INELIGIBLE FOR IFP STATUS, UPON THE UNSUPPORTED CLAIM THAT PETITIONER IS BARRED BY "3-STRIKES" AND THE PROVISIONS OF 28 U.S.C. § 1915(g) (2000).

24. KAISER (AND/OR THE COURT) HAVE OFFERED NO ADMISSIBLE EVIDENCE TO SUPPORT THE CLAIM OF "3-STRIKES", AND RELIES SOLELY UPON THE COURT'S SUA SPONTE FINDING OF "3-STRIKES", W/O

HEARING OR OPPORTUNITY TO BE HEARD, BY THE PETITIONER.

25. THE PETITIONER DISPUTES THE COURT'S ~~UNDISPUTED~~ UNSUPPORTED FINDING OF ~~THAT~~ "3-STRIKES" AND HAS SUBMITTED SUBSTANTIAL UNCONTROVERTED ADMISSABLE EVIDENCE, ESTABLISHING THAT THE PETITIONER HAS NO COUNTABLE "STRIKES", AND THAT § 1915(G) IS INAPPLICABLE TO THE INSTANT ACTION.

" 26. IN SUA SPONTE DECLARING "3-STRIKES" ~~THE U.S. DISTRICT COURT~~ ~~THROUGH~~ THROUGH IT'S ADVOCATE THE U.S. DISTRICT COURT, RELIES UPON ALLEGED "FOREIGN JUDGMENTS" (RENDERED OUTSIDE THIS DISTRICT) FOR WHICH NO ATTEMPT HAS BEEN MADE TO AUTHENTICATE, ADMIT INTO EVIDENCE, REGISTER OR OTHERWISE VALIDIFY THE CLAIMED "STRIKE" FOREIGN ORDERS.

27. PETITIONER, BY WAY OF ADMISSABLE AND UNCONTROVERTED EVIDENCE, ASSERTS THAT THE CLAIMED "STRIKE" ORDERS



ARE "VOID AB INITIO" ORDERS OF NO FORCE AND EFFECT, ARE NOT ENFORCEABLE IN THIS COURT OR IN THIS DISTRICT AGAINST THE PETITIONER, AND ARE SUBJECT TO THE PETITIONER'S COLLATERAL ATTACK IN THE CAPTIONED ACTIONS.

28. BY UNCONTROVERTED AND ADMISSABLE EVIDENCE THE PETITIONER HAS FULLY ESTABLISHED THAT THE CLAIMED "STROKE" AND/OR "3-STROKE" ORDERS, AND/OR OTHER "DOA ORDERS" ARE "VOID AB INITIO", AS A MATTER OF FEDERAL STATUTE AND LAW, DUE TO PRE-EXISTING FINAL JUDGMENTS AND/OR FINAL CONSENT DECREES AS LISTED HEREIN ON EX. 2, (PG 34 OF 35 TO 35 OF 35) AND AS PROPERLY ADMITTED INTO EVIDENCE IN THE CAPTIONED ACTIONS, AND AS PROPERLY REGISTEERED IN THIS COURT AND IN THIS DISTRICT PURSUANT TO 10 DEL. C. §§ 4781 TO 4781.

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29. KAISER, THROUGH IT'S ADVOCATE, THE USDC, HAS OFFERED NOTHING TO CONTRAVENE, DISTURB OR CHALLENGE PETITIONER'S "FOREIGN JUDGMENTS" (SEE EX. 2), AND HAS THEREFORE CONCEALED THE VALIDITY, ENFORCEABILITY AND SUPERIOR NATURE OF PETITIONER'S "FOREIGN JUDGMENTS".

30. KAISER, THROUGH IT'S ADVOCATE THE USDC, HAS OFFERED LITERALLY NOTHING TO CREATE AN ACTUAL "CONTROVERSY" AS REQUIRED BY U.S. CONST. ART III, AS TO THE VALIDITY, ADMISSIBILITY AND ENFORCEABILITY OF THE PETITIONER'S "FOREIGN JUDGMENTS", WHICH ON THEIR FACE, REQUIRE THIS COURT TO VACATE AND DECLARE "VOID AB INITIO" ALL "DOA ORDERS", "STRIKE" OR "3-STRIKE" ORDERS CLAIMED OR ASSERTED AGAINST PETITIONER, IN THE ATTEMPT TO BLOCK PETITIONER'S STATUTORY RIGHT

TO ~~RE~~ APPEAR AND REVIEW  
OF THE RE-CLASSIFICATION AND  
REDUCTION OF PETITIONER'S  
ALLOWED CLAIM, AS VESTED  
BY KAISER'S CONFIRMED  
PLAN.

B. PETITIONER IS ENTITLED TO  
A TEMPORARY RESTRAINING ORDER  
AND A PRELIMINARY INJUNCTION.

31. IN DETERMINING WHETHER  
PETITIONER IS ENTITLED TO A  
TRO OR PI, THE COURT GENERALLY  
CONSIDERS SEVERAL FACTORS:  
① WHETHER THE PARTY WILL SUFFER  
"IRREPARABLE INJURY"; ② THE  
"BALANCE OF HARSHIPS" BETWEEN  
THE PARTIES; ③ THE LIKELY HOOD  
OF SUCCESS ON THE MERITS; ④  
AND THE PUBLIC INTEREST. EACH  
OF THESE FACTORS WEIGHS HEAVILY  
IN FAVOR OF GRANTING THE  
PETITIONER INJUNCTIVE RELIEF.

C. PETITIONER IS SUFFERING A  
CONTINUING VIOLATION OF HIS CONSTITUTIONAL  
RIGHTS, CONSTITUTING IRREPARABLE  
HARM



32. THE USE OF THE "DOA ORDERS" IN THE CAPTIONED ACTIONS, TO DENY THE PETITIONER HIS STATUTORY RIGHT TO APPEAL AND REVIEW, BY THE SUA SPONTE DENIAL OF IFP STATUS, GIVES RISE TO THE PETITIONER'S RIGHT TO DECLARE A COLLATERAL ATTACK ON THE "DOA ORDERS"; SEE D.O.I. 6 (10/11/05) AND D.O.I. 13 (1/13/06) IN CASE NO. 05-CV-574, WHICH ARE INCORPORATED HEREIN AS THOUGH FULLY SET FORTH HEREIN.

33. WHILE THE "DOA ORDERS" WERE INITIALLY PLACED AT ISSUE BY KAISER'S ADVOCATE, THE USDC, KAISER ON 3/17/06, IN CASE NO. 06-CV-178, D.O.I. 6, "JOINT MOTION OF DEBTORS...", AT PG. 2, FOOTNOTE 4, HAS ADOPTED THE USDC'S POSITION, BY CITING TO AND RELYING UPON THE "DOA ORDERS" BY REFERENCE TO CASE NO. 05-CV-574, D.O.I. 3, 15 (SEE 06-CV-178, D.O.I. 6, BOTTOM OF PG. 3).

34. WHILE KAISER HAS ADOPTED THE USDC'S POSITION, THE ISSUE OF THE PETITIONER'S IFP BAR, BY A CLAIMED "3-STRIKES," IS NOT PROPERLY BEFORE THE COURT BY WAY OF A KAISER NOTICED MOTION, SUPPORTED BY SUFFICIENT ADMISSIBLE

EVIDENCE, TO CAUSE THE BURDEN TO SHIFT TO THE PETITIONER, OR TO CREATE AN ACTUAL ARTICLE III CONTROVERSY, SEE DELEON V. DOE, 361 F.3d 93, AT 95 (2ND CIR 2004) (HOLDING THAT THE USDC ACTS IN A CLEAR ABSENCE OF ALL JURISDICTION, WHEN THE COURT DECLARES A "3-STRIKE" DISMISSAL, ON A SUA SPONTE, BASIS, WITHOUT A NOTICED MOTION, FROM THE OPPOSING LITIGANT, SUPPORTED BY ADMISSIBLE EVIDENCE). LIKE IN DELEON, THIS USDC HAS ~~NO~~ INVOLVED ITSELF IN A DISPUTE THAT MIGHT NEVER HAVE ANY PRACTICAL CONSEQUENCES, AS A "3-STRIKE" ITF DEFENSE CAN BE WAIVED.

35. IN THE CAPTIONED CASES, THE USDC HAS WRONGFULLY INVOLVED ITSELF, AS KAISER'S ADVOCATE (NOW ENDORSED BY KAISER) IN A POTENTIAL DISPUTE THAT HAD NO ACTUAL ARTICLE III CONTROVERSY, WHICH NOW SUBJECTS THE CLAIMED "DOA ORDERS" TO THE PETITIONER'S COLLATERAL ATTACK, INVOLVING MULTIPLE "FUNDAMENTAL INTERESTS" OF THE PETITIONER, INTO THE LITIGATION WITH KAISER.

36. THE USE OF THE "DOA ORDERS" AGAINST THE PETITIONER, HAS INVOKED MULTIPLE "FUNDAMENTAL INTERESTS" OF THE PETITIONER, IN THESE

ACTIONS, INCLUDING PETITIONER'S FUNDAMENTAL RIGHT TO A WAIVER OF COSTS & FEES AND MANDATORY ACCESS TO THE COURT TO CHALLENGE:

① A "VOID AB INITIO" 12/8/03 DIVORCE DECREE, ENTERED EX PARTE W/O NOTICE OR OPPORTUNITY TO BE HEARD, WHICH GRANTED RELIEF IN EXCESS OF THAT ALLOWED BY A PRE-EXISTING "SEPARATION CONTRACT" (SEE EX. 2, ITEM "U", "SEPARATION CONTRACT", ENFORCEABLE IN THIS ACTION AGAINST THE "DOA ORDERS" BY RCW 26.09.070(6) AND U.S. CONST. ART IV § 1);

~~② A "VOID AB INITIO" PERMANENT RESTRAINING~~ (SEE BODDIE V. CONNECTICUT, 401 U.S. 371 (1971));

② A "VOID AB INITIO" PERMANENT RESTRAINING ORDER, TERMINATING PETITIONER'S PARENTAL RIGHTS (SEE M.L.B. V. S.L.T., 519 U.S. 102 (1996)); AND

③ A "VOID AB INITIO" ORDER, ISSUED W/O BASIS IN FACT OR LAW, AND IN A CLEAR ABSENCE OF ALL JURISDICTION, TAKING PETITIONER'S LIBERTY (SEE MAYER V. CHICAGO, 404 U.S. 189 (1971)).

37. THE GRANTING OF FULL FAITH & CREDIT TO THE "DOA ORDERS" VIOLATES THE PETITIONER'S CONSTITUTIONALLY PROTECTED "VESTED RIGHTS" ESTABLISHED BY THE "FOREIGN JUDGMENTS" (EX. 2), WHICH CREATE A DUE PROCESS-PROTECTED PROPERTY INTEREST, UNDER THE 5<sup>TH</sup> & 14<sup>TH</sup> AMEND., (SEE ANDRE V. CO. OF NASSAU, 311 F. SUPP. 2d 325, AT 335, HEADNOTE [5] (E.D. NY 2004) CITING TO BENJAMIN V. JACOBSON, 124 F.3d 162, AT 176 (2<sup>ND</sup> CIR. 1997)); HODGES V. SNYDER, 261 U.S. 600, AT 603 (1923)).



38. THE USE OF 28 U.S.C. § 1915(g) (2000) (LEGISLATION ADOPTED IN 2000) AND THE "DOA ORDERS" AGAINST THE PETITIONER VIOLATES THE JUDGMENT CREDITORS RIGHTS UNDER THE UNITED STATES CONSTITUTION'S CONTRACT CLAUSE, SEE U.S. CONST. ART I § 10. SEE EX. 2, ITEMS b, c, d, e, f, m & o WHICH ARE FINAL JUDGMENTS WHICH WERE ENTERED, PRIOR TO THE ADOPTION OF § 1915(g) IN 2000. MC CULLOUGH V. VIRGINIA, 172 U.S. 102, AT 123-24 (1898) (IT IS NOT WITHIN THE POWER OF CONGRESS TO TAKE AWAY RIGHTS THAT HAVE BEEN VESTED BY FINAL JUDGMENT. ONCE AN ACTION PASSES TO FINAL JUDGMENT THE POWER OF THE CONGRESS TO DISTURB THE VESTED RIGHTS THEREBY CREATED CEASES). AS SUCH THE JUDGMENT CREDITOR'S "VESTED RIGHTS" CREATED BY THE FINAL JUDGMENTS LISTED ON EX. 2, CAN NOT BE RESTRICTED, BY DENYING THE JUDGMENT CREDITOR ACCESS TO THIS COURT, TO ENFORCE ITS "VESTED RIGHTS" PROTECTED BY U.S. CONST. ART 4 § 2 (FULL FAITH & CREDIT CLAUSE) AND U.S. CONST. ART. I § 10 (CONTRACT CLAUSE),

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SEE HODGES V. SPYDER, 261 U.S. 600, AT 603-04 (1923) (THE PRIVATE RIGHTS OF PARTIES TO LITIGATION WHICH HAVE BEEN ESTABLISHED AND "VESTED" BY THE JUDGMENT OF A COURT, CANNOT BE TAKEN AWAY BY SUBSEQUENT LEGISLATION, BUT MUST BE THEREAFTER ENFORCED BY THE COURT REGARDLESS OF SUCH LEGISLATION). AS SUCH THIS COURT MUST ENFORCE THE 7 SEPARATE FINAL JUDGMENTS (EX. 2, ITEMS B, C, D, E, F, M & O) WHICH PRE-DATE THE 2000 REAFFIRMATION OF § 1915(G), NOT WITHSTANDING THE "DOA ORDERS" WHICH PURPORT TO HALT ENFORCEMENT, AND MUST ALSO ENFORCE THE REMAINING 14 SEPARATE FINAL JUDGMENTS AND FINAL CONSENT DECREEES, AS THEY SIMPLY ENFORCE, EXTEND AND FURTHER "VEST" THE RIGHTS VESTED BY THE ORIGINAL 7 FINAL JUDGMENTS. AS SUCH THIS COURT HAS A MANDATORY TO EXERCISE ITS AUTHORITY TO GRANT THE JUDGMENT CREDITOR'S COLLATERAL ATTACK ON THE "DOA ORDERS", TO VITATE AND DECLARE THE "DOA ORDERS" TO BE UNCONSTITUTIONALLY "VOID AB INITIO" AND TO FORN WITH GRANT FULL FAIR & CREDIT

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TO THE 21 SEPARATE "FOREIGN JUDGMENTS", THEREBY ENFORCING THE JUDGMENT CREDITOR'S "VESTED RIGHTS" AND HIS "FUNDAMENTAL INTERESTS" THAT HAVE BEEN AT STAKE" OR AT RISK IN THESE ACTIONS, BY KAKER'S USE (THROUGH THE ADVOCACY OF THE USDC) IN THESE ACTIONS OF THE "DOA ORDERS", TO DENY THE APPELLANT AND JUDGMENT CREDITOR HIS STATUTORY RIGHT TO REVIEW AND APPEAL, OF THE BANKRUPTCY COURT'S "RE-CLASSIFICATION" AND "REDUCTION" OF THE PETITIONER'S <sup>ALLOWED</sup> ~~ASSIGNED~~ CLAIM (CLAIM # 736)

39. THE USE OF THE DOA ORDERS TO DENY THE PETITIONER ACCESS TO THIS COURT, FURTHER VIOLATES THE PETITIONER'S RIGHT TO WORK IN HIS COURT-APPOINTED OCCUPATION AS THE GENERAL MANAGER OF THE REORGANIZED DEBTOR, UNDER THE FOREIGN JUDGMENTS, ~~THE PETITION~~ WHICH IS PROTECTED BY THE



DUE PROCESS OF LAW PROVISIONS OF  
 THE U.S. CONST 5<sup>TH</sup> & 14<sup>TH</sup> AMEND,  
 THE "FOREIGN JUDGMENTS" (EX. 2,  
 ITEMS, d, 9, r, & 9) ESTABLISH A  
 DEFINITIVE PROPERTY INTEREST IN  
 PETITIONER'S CONTINUED EMPLOYMENT,  
 AS AN ARM-OF-THE-COURT, CHARGED WITH  
 THE EXECUTION & ENFORCEMENT OF  
 THE "FOREIGN JUDGMENTS", AND THESE  
 FINAL JUDGMENTS AND FINAL CONSENT  
 DECREES ~~EXPRESS~~ ESTABLISH AN  
 EXPRESSED CONTINUING FORMAL  
 CONTRACT OF EMPLOYMENT, RECOGNIZED  
 BY <sup>FEDERAL AND</sup> STATE LAW, STATUTE, REGULATION  
 AND RULE (SEE EX. 2, ITEM "9", ~~PGS~~  
 LAST 2 PGS) (SEE BISHOP V. WOOD, 426 U.S.  
 341 (1976)). THE PETITIONER'S "RIGHT TO  
 WORK" IN HIS COURT ORDERED EMPLOYMENT  
 OF THE EXECUTION AND ENFORCEMENT  
 OF THE "FOREIGN JUDGMENTS", IS THE  
VERY ESSENCE OF THE PERSONAL  
FREEDOM AND OPPORTUNITY THAT IT  
 WAS THE PURPOSE OF THE 5<sup>TH</sup> & 14<sup>TH</sup>  
 AMENDMENTS, TO SECURE, (SEE  
TRUAX V. RAICH, 239 U.S. 33, AT 41  
 (1915)). THE RESULT OF THIS COURT'S  
 ENFORCEMENT OF THE "DOA ORDERS"  
 IS AN ACTION BY THE GOVERNMENT  
 (THROUGH THE USDC) TO DISCHARGE THE

PETITIONER, FOR SIMPLY HAVING SOUGHT TO DO HIS COURT ORDERED JOB OF ENFORCING AND EXECUTING ON THE 21 SEPARATE "FOREIGN JUDGMENTS". EX. 2, ITEM "9" GRANTS THE PETITIONER, AS A FINAL JUDGMENT CONTINUED EMPLOYMENT, UNTIL THE "FOREIGN JUDGMENTS" ARE SUCCESSFULLY AND FULLY EXECUTED ON AND ENFORCED, THE SUA SPONTE "DOA ORDERS", AND THE APPLICATION OF § 1915(G) CAN NOT BE USED TO INTERFERE WITH THE "VESTED RIGHT" OF CONTINUED EMPLOYMENT, AWARDED TO PETITIONER BY FINAL JUDGMENT.

THE D. PETITIONER IS SUFFERING  
IRREPARABLE HARM WARRANTING  
IMMEDIATE INJUNCTIVE RELIEF

40. AS A MATTER OF LAW THE CONTINUING DEPRIVATION OF A SINGLE CONSTITUTIONAL RIGHT CONSTITUTES IRREPARABLE HARM. ELROD V. BURNS, 427 U.S. 347, AT 373 (1976). IN THIS CASE, IT IS CLEAR THAT THE PETITIONER HAS SUFFERED ~~THE~~ MULTIPLE PAST AND ON GOING VIOLATIONS OF CONSTITUTIONAL AND CONSTITUTIONAL

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AS A RESULT OF THE SUA SPONTE ISSUANCE AND ENFORCEMENT OF THE "DOA ORDERS," AS SUCH PETITIONER HAS REESTABLISHED A "PRESUMPTION OF IRREPARABLE" THAT IS FLOWING FROM THE MULTIPLE VIOLATIONS OF THE PETITIONER'S FUNDAMENTAL CONSTITUTIONAL RIGHTS BY THE SUA SPONTE ISSUANCE AND ENFORCEMENT OF THE "DOA ORDERS", SEE JOLLY V. COUGHLIN, 76 F.3d 468, AT 482 (2<sup>ND</sup> CIR 1996). EVEN A TEMPORARY DEPRIVATION OF A CONSTITUTIONAL RIGHT IS GENERALLY SUFFICIENT TO PROVE IRREPARABLE HARM, SEE NAT'L PEOPLE'S ACTION V. WILLMETTE 914, F.2d 1008, AT 1013 (7<sup>TH</sup> CIR. 1990); ROSS V. MEESE, 818 F.2d 1132, 1135 (4<sup>TH</sup> CIR 1987) (NOTING THAT DEPRIVATION OF ANY CONSTITUTIONAL RIGHT AMOUNTS TO IRREPARABLE HARM); MITCHELL V. CUOMO, 748 F.2d 804, AT 806 (2<sup>ND</sup> CIR 1984) (HOLDING THAT EVEN AN ALLEGED VIOLATION OF A CONSTITUTIONAL RIGHT IS A SHOWING OF IRREPARABLE HARM).

#### F. THE BALANCE OF HARDSHIPS FAVORS THE PETITIONER

41. IN DECIDING WHETHER TO GRANT THE REQUESTED TROUSE & P.I.



THE USDC COURT MUST ASK WHETHER THE SUFFERING OF THE MOVING PARTY, IF THE MOTION IS DENIED, WILL OUTWEIGH THE SUFFERING OF THE NON-MOVING PARTY (KAISER) IF THE MOTION IS GRANTED. KAISER IS NOT A DIRECT PARTY IN INTEREST AS TO THE "FOREIGN JUDGMENTS", AND WOULD NOT SUFFER ANY HARDSHIP BY THE ISSUANCE OF THE REQUESTED TRO/OSC & P.I., OTHER THAN HAVING TO LITIGATE THE ISSUES OF THE BANKRUPTCY COURT'S "RECLASSIFICATION" AND "REDUCTION" ON THE MERITS, IN THIS APPEAL. THE PETITIONER WILL GREAT AND IRREPARABLE HARDSHIP BY THE COURT REFUSING TO ISSUE THE REQUESTED INJUNCTION, AS THIS COURT'S ENFORCEMENT OF THE SIA SOURCE & EX PARTE "DOA ORDERS" WILL INVALIDATE THE JUDGMENT CREDITORS' "VESTED RIGHTS" IN THE "FOREIGN JUDGMENTS" IN THIS DISTRICT, AND WILL CAUSE THE PETITIONER FURTHER IRREPARABLE HARM AND HARDSHIP TO THE RESTORATION OF HIS LOST <sup>LIBERTY AND</sup> COMMUNITY PROPERTY, AND MORE IMPORTANTLY HIS LOST PARENTAL RIGHTS, AND TIME WITH HIS MINOR CHILDREN, WHICH WILL BE PLACED HOPELESSLY AT RISK ~~AND~~ OF BEING FOREVER LOST, WHICH IS A HARDSHIP AND LOSS WHICH CAN NOT BE REMEDIED BY A ~~THE~~ SUBSEQUENT MONEY JUDGMENT. THE PETITIONER'S

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LOST TIME WITH HIS MINOR CHILDREN, CAN NEVER BE RESTORED, PARTICULARLY AS THE CHILDREN APPROACH THE AGE OF MAJORITY. PETITIONER'S MOST SACRED RIGHT, A RIGHT GREATER THAN LIFE ITSELF ~~IS AT RISK~~ HAS NOW BEEN PLACED AT RISK IN THIS ACTION BY THE COURT'S MISPLACED ATTEMPTS TO ENFORCE THE "DOA ORDERS" WHICH MAY ACT TO FULLY TERMINATE THE PETITIONER'S PARENTAL RIGHTS, A HARM AND LOSS GREATER THAN ANY OTHER CONCERNABLE.

F. THE PETITIONER IS LIKELY TO SUCCEED ON THE MERITS

42. THE PETITIONER HAS A GREAT LIKELY HOOD OF SUCCESS ON THE MERITS IN THIS APPEAL. THE RECORD WILL SHOW AND ESTABLISH THAT THE BANKRUPTCY COURT'S "RE-CLASSIFICATION" AND "REDUCTION" OF THE PETITIONER'S ALLOWED CLAIM, WAS NOT MADE UPON ANY IDENTIFIABLE FACTS, EVIDENCE OR CRITERIA. THE DEBTOR ~~EX~~ KASER SIMPLY DECLARED THAT THE PETITIONER'S <sup>ALLOWED</sup> CLAIM SHOULD BE RE-CLASSIFIED AND REDUCED, STATING SIMPLY THAT KASER HAS "DETERMINED" 26. 30 OF 35

THAT THE ALLOWED CLAIM SHOULD BE RECLASSIFIED AND REDUCED, WITHOUT CITING TO A SINGLE FACT OR LEGAL AUTHORITY. THE PETITIONER'S CLAIM WAS ARBITRARILY RECLASSIFIED AND REDUCED, IT WILL BE SHOWN, IN "MASS", W/ 32 OTHER CLAIMS, W/O ANY ANALYSIS, BASIS, SUPPORTING FACTS BEING CITED TO BY KAISER, OR THE COURT. THE RECORD WILL FURTHER ESTABLISH THAT THE PETITIONER'S DUE PROCESS RIGHTS WERE VIOLATED, AND THAT THE APPLICABLE STANDARDS, PURSUANT TO FRBP 3007, LOCAL RULE 3007-1, 11 U.S.C. § 507 AND OTHER PROVISIONS OF THE BANKRUPTCY CODE AND CASE. OTHER THAN KAISER'S UNSUPPORTED, UNQUANTIFIED, "DETERMINATION" THAT THE PETITIONER'S ALLOWED CLAIM SHOULD BE RE-CLASSIFIED AND REDUCED, (WHICH IS AN INSUFFICIENT ASSERTION, OR "BLANKET" CLAIM) THERE WAS NO BASIS FOR THE BANKRUPTCY COURT'S ORDER. SEE LONGSTREET V. MAYNARD, 961 F.2d 88, AT 903 (10TH CIR 1992); ENG V. SMITH, 849 F.2d 80, AT 81 (2ND CIR 1988).



G. THE RELIEF SOUGHT WILL  
SERVE THE PUBLIC INTERESTS

43. THE PUBLIC INTEREST IS SIGNIFICANTLY SERVED BY THE ENFORCEMENT OF PREVIOUSLY "VESTED" AND FULLY ADJUDICATED RIGHTS, AS THE PETITIONER AND JUDGMENT CREDITOR HAS AT STAKE IN THIS ACTION, NOW THAT MULTIPLE FUNDAMENTAL CONSTITUTIONAL INTERESTS OF THE PETITIONER HAVE BEEN PLACED "AT STAKE" AND AT RISK BY THE COURT ENFORCEMENT OF THE "VOID AB INITIO", SUA SPONTE AND EX PARTE "DOA ORDERS," ENTERED IN A CLEAR ABSENCE OF ALL JURISDICTION AND CONTRARY TO ESTABLISHED CONSTITUTIONAL PROVISIONS, STATUTES AND AUTHORITY. SEE LIEWELYN v. OAKLAND CO. PROSECUTOR 402 F.SUPP 1379 AT 1393 (E.D. MICH 1975) ("THE CONSTITUTION IS THE ULTIMATE EXPRESSION OF THE PUBLIC INTEREST"). ILQ INVESTMENTS, INC. v. CITY OF ROCHESTER 816 F.SUPP. 516, AT 527 (D. MINN. 1993) ("UPHOLDING CONSTITUTIONALLY GUARANTEED RIGHTS IS IN THE PUBLIC INTEREST") HERE, THE PUBLIC INTEREST WOULD BE ILL SERVED AND VIOLATED BY NOT ISSUING THE

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REQUESTED TRO/OSC & P.I.

H. PETITIONER SHOULD NOT BE  
REQUIRED TO POST SECURITY SINCE BAKER  
WILL NOT SUFFER MONETARY LOSS BY ATTENTION

44. THE COURT SHOULD WAIVE ANY REQUIREMENT FOR SECURITY TO BE POSTED BY THE PETITIONER/JUDGMENT CREDITOR, FIRST BECAUSE THE PETITIONER IS INDIGENT AND UNABLE TO POST SECURITY, AND THE COURT HAS DISCRETION TO EXCLUDE AN IMPROBISHED LITIGANT FROM POSTING SECURITY, SEE CRANES-HERNANDEZ v. SMITH, 541 F. Supp. 351, AT 385 N. 30 (C.D. CAL. 1982); J.L. v. PARHAM, 412 F. Supp. 112, AT 140 (N.D. GA 1976),

SECONDLY, AND MOST IMPORTANTLY, BAKER WILL NOT SUFFER ANY MONETARY LOSS, BY THE ISSUANCE OF THE TRO/OSC & P.I., OTHER THAN THE COST TO LITIGATE THE APPEAL ISSUES ON THEIR MERITS, SEE COTTON v. COTTON CO., 805 F. Supp. 398, AT 408 (N.D. MISS. 1992); U.S. v. STATE OF OREGON, 675 F. Supp. 1249, AT 1253 (D. OR. 1987).

#### CONCLUSION

FOR ALL OF THE FOREGOING REASONS THE COURT SHOULD GRANT THE REQUESTED TRO/OSC & P.I. IN THE INTERESTS OF JUSTICE TO PREVENT A MISDISTRIBUTION OF JUSTICE.

DATED 4/26/06 PG 33 OF 35  
FILED/MAYED ON

I DENY THAT I HAVE ANY DIRECT OR INDIRECT INTEREST IN THE OUTCOME OF THIS CASE OR THE CASES OF THE U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT. I HAVE: 4/20/06



# FOREIGN JUDGMENTS

## EXHIBIT "2"

### AUTHENTICATION & REGISTRATION THEREOF:

- a. NOTICE of Filing of "Assignment of Interests in Bankruptcy Court Judgments Rendered in Another District, for the Benefit of Creditors, in aid of the Judgment, and in the aid of the Enforcement and Execution Thereof", filed 3-22-02 in Misc Case No 02-02, filed as Docket #535, on March 22, 2002, in Case No. 01-06073-W11, USBC-ED-WA;
- b. "Order Approving Disclosure Statement and Fixing Time for Filing Acceptances or Rejections of Plan, Combined With Notice Thereof", (hereinafter "Broadway Disclosure Statement"), entered December 21, 1998, as Docket #112 in Case No. LA 98-18082-SB, USBC-CD-CA-LA;
- c. "Order Approving 'Judgment Creditors' Second Amended Chapter 11 Plan", (hereinafter "Broadway's First Plan w/Discharge"), entered March 19, 1999, in Case No. LA 98-18082-SB, USBC-CD-CA-LA, as Docket #129, along with the Clerk's Notice of Entry of Judgment or Order and Certificate of Mailing and Proof of Service on Counsel;
- d. "Order Approving 'Judgment Creditors' Second Amended Chapter 11 Plan (As Modified)", (hereinafter "Broadway's Second Plan"), entered June 16, 1999, in Case No. LA 98-18082-SB, USBC-CD-CA-LA, along with the Clerk's Notice of Entry of Judgment or Order and Certificate of Mailing and Proof of Service;
- e. "Findings of Fact and Conclusions of Law in Support of Order Disallowing Claims of John H. Smith and Robert Hayes", (hereinafter "Fraudulent Deed Findings"), entered December 29, 1998, in Adversary Case No. AD-98-01685-SB, USBC-CD-CA-LA, along with the Clerk's Notice of Entry of Judgment or Order and Certificate of Mailing and Proof of Service;
- f. "Judgment and Order Pursuant to Summary Judgment Motions", (hereinafter "Fraudulent Deed Judgment"), entered December 29, 1998, in Adversary Case No. AD 98-01685-SB, USBC-CD-CA-LA, along with the Clerk's Notice of Entry of Judgment or Order and Certificate of Mailing and Proof of Service;
- g. "Stipulated Order Re: Liability and Damages", entered October 30, 2000 in Case No. CS-97-435-RHW, USDC-ED-WA;
- h. Writ of Obedience #02-0001, issued May 31, 2002, in Spokane County Superior Court Case No. 02-2-02825-4; ~~DOC #14~~, FILED 10/21/04 ~~14~~
- i. Writ of Obedience #02-0002, issued June 6, 2002, in Case No. 02-2-02825-4; ~~DOC #15~~ ~~15~~
- j. Writ of Obedience #02-0003, issued June 7, 2002, in Case No. 02-2-02825-4; ~~DOC #16~~ ~~16~~
- k. Writ of Obedience #02-0004, issued June 12, 2002, in Case No. 02-2-02825-4; ~~DOC #17~~ ~~17~~
- l. Writ of Obedience #02-0005, issued July 18, 2002, in Case No. 02-2-02825-4; ~~DOC #18~~ ~~18~~
- m. ORDER denying relief from stay Re: Item # 41. with Notice of Entry, filed 1/11/2000 as Docket #137, incorporating therein "Opposition Re: Item # 41. to motions to lift stay: opposition to motion to annul stay, filed 12/9/1999, as Docket #94", and incorporating "Opposition Re: Item # 57, to motion to lift stay and to motion to annul, filed 12/10/1999, as Docket #95", all filed in Case No. LA 99-39555-SB, USBC-CD-CA-LA;
- n. BAP/USDC appeal judgment - the Bankruptcy Court judgment is AFFIRMED. BAP #CC-00-1049 RE: Item #154, filed 1/16/2001, as Docket #359, Case No. LA 99-39555-SB, USBC-CD-CA-LA;
- o. ORDER Granting Debtors Motion to Strike Liens, filed 9/15/1998, as Docket #199, in Case No. 96-02980-K11, USBC-ED-WA;
- p. NOTICE of Filing of "Request to Clerk for Registration of Judgment Rendered in Another Court, filed 3-21-02 as Misc Case No. 02-01 (02-01731 DJM \$), filed 3/27/2002, as Docket #536, Case No. 01-06073-W11, USBC-ED-WA;
- q. EXHIBIT J Admitted at hearing on 12-5-01; re. Amendment to Settlement Agreement and Mutual Release and Personal Services Contract Effective 5-24-01 between Duncan J McNeil and Broadway Buildings II LP. Re: Oust Motin to Convert Case to Cb 7, Docket #44 & Joinder therein Docket #212, as Docket #459, Case No. 01-06073-W11, USBC-ED-WA;

① DOCT'S REFER TO "PACER" DOCKET NUMBERS FOR CASE NO:

2:04-cv-00427-AAM; USDC

EASTERN DISTRICT  
OF WASHINGTON

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## FOREIGN JUDGMENTS

EX. 2

(PG 2 OF 2)

- r. EXHIBIT J Admitted at hearing on 12-5-01; Re: Amendment to Settlement Agreement and Mutual Release and Personal Services Contract, effective 8-17-01 between Duncan J McNeil, GMFT Reorganization Corporation, and Broadway Buildings II LP RE: Oust Motion to Convert Case to Ch 7, Docket #44 and Joinder therein Docket #212, filed 1/4/2002, as Docket #460, Case No. 01-06073-W11, USBC-ED-WA;
- s. PROPOSED Exhibit "D-D" to Supplement Exhibits offered at hearing on 12-5-01; RE: 1) Standard Form 95 Claim for Damages filed by Duncan J McNeil 11-23-99 with the Oust-Ed-WA, in the Sum of \$5211.926, ..., filed 2/6/2002, as Docket #'s 506, 506A, Case No. 01-06073-W11, USBC-ED-WA;
- t. PROPOSED Exhibit "I-I" to Supplement Exhibits offered at hearing on 12-5-01; re: 1) Standard Form 95 Claim for Damages filed by Duncan J McNeil on 3-6-98 with the Oust-Ed-WA, in the sum of \$4,651,000. Re: Oust Motion to Convert Case to Ch 7, Docket #44 and Joinder therein Docket #212, filed 2/11/2002, as Docket #512, Case No. 01-06073-W11, USBC-ED-WA;
- u. (1) NOTICE of Separation Contract & Dissolution of Marriage Contract Pursuant to RCW 26.09.070 filed 7-26-01 as Document #4613783 with the County Recorder for Spokane County, Washington, (pages 1 of 29 to 29 of 29); (2) JOINT Petition for Dissolution of Marriage, filed 7-26-01 in Case No. 01-301586-7 (pages 2 of 29 to 5 of 29); (3) SEPARATION Contract and Dissolution of Marriage Contract Pursuant to RCW 26.09.070, filed 7-26-01 in Case No. 01-301586-7, (pages 6 of 29 to 29 of 29), filed 2/6/2002, as Docket #505, Case No. 01-06073-W11, USBC-ED-WA;
- v. ~~Case No. 01-06073-W11, USBC-ED-WA; entered 4/20/06 in Spokane County Superior Court Case No. 01-06073-W11, USBC-ED-WA, except those portions of the decree that were entered in violation of law, and in violation of the Complainant's civil and constitutional rights, as a parent.~~

AUTHENTICATION & REGISTRATION OF JUDGMENTS

I, DUNCAN J. MCNEIL III, AM THE LAWFUL OWNER OF THE FOREGOING LISTED "FOREIGN JUDGMENTS" AND I HEREBY CERTIFY THAT TRUE AND CORRECT COPIES OF THESE "FOREIGN JUDGMENTS" ARE ON FILE IN THE IDENTIFIED ACTIONS AND DOCKET #'S AND THAT THESE "FOREIGN JUDGMENTS" ARE OFFICIALLY PUBLISHED ON THE COURT'S "PACER" SYSTEM, PURSUANT TO FRCP 44(c)(1) AND FRE RULE 201(d)(2) AND ARE THE "OFFICIAL PUBLICATIONS THEREOF". BY THIS MOTION/PETITION/ APPLICATION I REQUEST THAT THE CLERK OF THE COURT PRINT, FILE AND REGISTER THESE "FOREIGN JUDGMENTS" FROM THE COURT'S "PACER" SYSTEM AND THAT THESE "FOREIGN JUDGMENTS" BE GRANTED FULL FAITH & CREDIT IN THIS COURT PURSUANT TO 28 USC § 1738, 28 USC § 1739 AND U.S. CONST. ART. IV § 1 (AND THE APPLICABLE STATE UEFJA®). I DECARE THE FOREGOING TO BE TRUE AND CORRECT, UNDER THE PENALTY OF PERJURY.

DATED: 4/20/06

~~35 OF 35~~ JUDGMENT CREATOR

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4 REO/06

APR 27 2006

TO: CLERK D-  
 USDC-D-DE  
 REQUEST FOR REASONABLE ACCOMMODATION

AS A REASONABLE  
 ACCOMMODATION TO MY  
 ESTABLISHED DISABILITY,  
 PER ADA & SECTION 508,

RE:  
 MC-06-41  
 CV-05-574  
 (CV-06-178)

I AM REQUESTING THAT THE CLERK  
 PROVIDE ME A CONFIRMED COPY  
 OF THIS URGENT MOTION, (BY  
 MAIL) AND THAT THE CLERK

ELECTRONICALLY FILE THIS  
 MOTION, AND ELECTRONICALLY  
 SERVE COPIES OF SAID

MOTION ON ALL PARTIES  
 TO THE REFERENCED ACTIONS.

THANK YOU FOR ACCOMMODATING  
 MY ESTABLISHED DISABILITY





DUNCAN J. MCHENRY  
SPOKANE CO. JAIL  
1100 W. MARLON  
SPOKANE, WA 99260

CLERK  
US DISTRICT COURT  
LOCK BOX 27  
844 KNGST.  
WILMINGTON, DE 19801

LEGAL MAIL